



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,560	05/19/2000	JADWIGA CHROBOCZEK	3339-422	2330

826 7590 07/02/2002

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

GUZO, DAVID

ART UNIT	PAPER NUMBER
----------	--------------

1636

DATE MAILED: 07/02/2002

French Sec.
11/3/97
Nov 3, 1997

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,560

Applicant(s)

CHROBOCZEK ET AL.

Examiner

David Guzo

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/30/02.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restriction

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Claims 1-2 contain the following patentably distinct inventions:

A peptide vector comprising the following elements:

a segment of an NLS selected from the group consisting of SEQ ID NO:s 1-6 and 24;

a hydrophobic sequence selected from the group consisting of 7 or 8;

X₁ selected from the group consisting of 0 or SEQ ID NO:s 9-15;

X₂ selected from the group consisting of SEQ ID NO:s 16-23 and

a polymeric sequence which can be a sequence of basic amino acids, a cationic polymeric sequence or a polyalcohol.

The claims therefore read on a plurality of patentably distinct inventions, each involving a peptide vector with a unique amino acid sequence selected from one sequence from SEQ ID NO:s 1-6, 24; one sequence selected from SEQ ID NO:s 9-15; one sequence selected from SEQ ID NO:s 16-23 and a having one polymeric sequence selected from the recited group.

Art Unit: 1636

The inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2. they lack the same or corresponding special technical feature for the following reasons:

Section (f)(i)(B)(1) of Annex B of the Administrative instructions requires that all alternatives of a Markush group have a common structure. Although the chemical compounds of Claims 1-2 share a common property or activity of being amino acid sequences, the compounds are not regarded as being of similar nature because all the alternatives do not share a common structure. Specifically, each of SEQ ID NO:s 1-24 recites a separate, unique, amino acid sequence. Also, the polymeric sequence is selected from sequences that are unrelated in structure, i.e. a polyalcohol vs. a sequence of basic amino acids. Therefore, they lack the same or corresponding special technical feature.

Applicants are therefore required to elect ONE (1) sequence each from the recited NLS sequences, the recited hydrophobic sequences, X₁, X₂ and a polymeric sequence from the list recited in claims 1 and 2.

Claims 3-10 will be examined with the elected invention from claims 1-2 and will be examined to the extent that they read on the sequences elected in claims 1-2 (for example, if applicants elect sequences different from those specifically claimed in claim 10, claim 10 will not be examined).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 1636

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Guzo whose telephone number is (703) 308-1906. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel, can be reached on (703) 305-1998. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242. Faxes may be sent directly to the examiner at (703) 746-5061.

Any inquiry of a general nature or relating to the status of this application or proceeding or relating to attachments to this Office Action should be directed to Patent Analyst Zeta Adams whose telephone number is (703) 305-3291.

David Guzo
July 1, 2002

DAVID GUZO
PRIMARY EXAMINER
